

**REMARKS**

**TELEPHONE INTERVIEW SUMMARY**

On June 7, 2007 Carol Stovsky, Applicant's representative, participated in a telephone interview with Examiner Champagne to discuss the present application. A proposed response to the office action dated February 9, 2007 was submitted to Examiner Champagne in advance of the telephone interview. Applicant's representative explained that the pending claims have limitations related to display model parameters and actual display characteristics that are independent of content and that are relevant to a user's monitored preferences and that are believed to patentably define the invention. Applicant further explained that Lemon fails to teach many of the claimed features and therefore, alone or in combination, cannot support the present rejections. The Examiner explained that the claims are given their broadest reasonable interpretation and that arguments regarding the missing claim limitations will be considered. No agreement regarding the claims was met.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 1 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemon et al. (US Pat. No. 4,674,041) in view of Herz et al. US005835087A. The Examiner has noted that Lemon does not teach an on-line system for on-line shopping that has customized displays based upon user experience and user data. Moreover, the Examiner has noted that Lemon does not teach on-line

purchasing, a computer located remotely from the point of sale and connected to a host computer via an on-line subscription service. Applicant respectfully traverses the rejections.

Applicant's invention is an online shopping system in which the consumer experience on the consumer's display monitor is customized both as to content and as to presentation of content. As described at Para. [0017] of the specification, in the present invention "[t]he processes of determining content and content presentation are **separated** so that the layout of the computer displays is completed independently of content selection." As described at Para. [0038] of the specification:

**[0038]** Following determination by the predictive model of the actual display characteristics (i.e., determination of the presentation of content) 30—which are preferably independent of specific merchant data—a customized display is created (i.e., determination of content) 48.

There are important elements of the claimed invention that are not taught or suggested by Lemon: 1) display model parameters (or variable display characteristics); and 2) and actual display characteristics. Each of these claim elements has specific claimed features as follows:

Display Model Parameters/Variable Display Characteristics

- Identify display characteristics
- Include elements for a computer display that comprise content data
- Indicate **monitored** user preferences for **presentation** of content data based on on-line behavior data in a user profile data

Actual Display Characteristics

- Independent of content data
- Selected **in accordance with or conforming to** display model parameters (which reflect user preferences)
- Used to present content data

The Examiner states that display model parameters/variable display characteristics are taught in Lemon at Col. 6, ll. 62-67: “[t]he video display presented on terminal T is either in free-standing advertising mode wherein full screen advertisements for particular products are sequentially displayed or, in the coupon dispensing mode wherein a page formatted, video menu of coupons is displayed for selection by the customer.”

Applicant respectfully submits this passage does not meet the claim limitations described above. In particular, the advertisements and pages of coupons are not display characteristics relating to elements comprising content data. Instead, they are content preformatted for display. More importantly, they do not relate in any way to user preferences for **presentation** of content data. The advertisements have no relationship to any user preferences. The terminal cycles through them until a user reactivates the coupon dispensing mode of the terminal. Once in coupon dispensing mode, the coupons relate to user preferences only with regard to their content. Lemon shows a sample coupon in Fig. 3b. Although content for coupons may vary according to user preferences (by actually limiting the user’s access to coupons for which the user has expressed a “preference”,) the presentation is the same for every coupon for every user. Therefore, there are no display model parameters or variable display

characteristics in Lemon that indicate or relate in any way to user preferences for presentation of content.

Another important claimed aspect of display model parameters or variable display characteristics is that they indicate “monitored” user preferences for presentation of content data. As explained in the specification at Para. [0033], “monitored” user preferences for presentation of content data are based on navigational choices and relate to such items as a preferred number of options to view (as represented by items appearing on a single display), a preferred option or item shape (e.g., round, rectangular, square, etc.), preferred areas of interest (e.g., casual clothing, camping equipment), preferred merchants (e.g., ABC Co. Clothing, XYZ Camping Warehouse), preferred merchant products and services (e.g., ABC hiking boots, XYZ tents), preferred background music and sounds (e.g., crickets), first, second, third color choices (e.g., khaki, green, blue), and preferred background (e.g., stream and trees). Applicant respectfully submits that Lemon fails to teach any aspects of data display related to monitored user preferences for presentation of content data.

With regard to actual display characteristics, the Examiner cites Col. 5, ll. 32-44 which states:

As will be described in detail below, microcomputer 22 will cause terminal T to sequentially display in page format an entire menu of coupons for selection. If after a prescribed period of time no selection has been made, microcomputer 22 will cause terminal T to display the next page of coupons and so on until the entire menu has been completed. If no selection has been made throughout the display process after a prescribed time period, microcomputer 22 causes terminal T to deactivate from the coupon dispensing mode, and begin displaying full page advertisements in a free-standing mode until such time as a customer reactivates terminal T via activator A.

Applicant respectfully submits that the teaching in this passage is exactly the same as the teaching in Col. 6, ll. 62-67 (full screen advertisements for particular products are sequentially displayed or, in the coupon dispensing mode wherein a page formatted, video menu of coupons is displayed for selection by the customer). Applicant respectfully submits that the Examiner cannot not rely on advertisements and page formatted coupons to be selected by a customer to teach both display model parameters/variable display characteristics as well as actual display characteristics. If the display model parameters and variable display characteristics are equated with the advertisements and pages of coupons, then the actual display characteristics (also equated with the advertisements and pages of coupons) cannot be selected based on display model parameters and this claim limitation is not met by the prior art. The advertisements and pages of coupons are not display characteristics that are independent of content data, and they are not used to present content data. Once again, they are nothing more than content data preformatted for display

Furthermore, if Lemon teaches actual display characteristics at all, they are not selected in accordance with or conforming to display model parameters which correspond to user preferences. A “preference” is a strong liking or a predisposition in favor of one thing over another. For something to be in accordance with or conform to a preference, it must be something for which a person has a strong liking or predisposition. Lemon teaches tracking user selections of coupons but does not teach or suggest selection of content—let alone display characteristics that relate to elements for displaying content—consistent with or in accordance with user “preferences.” Specifically, Lemon states:

Upon activation, terminal T determines whether the same credit card account number has been used within the last week or other predesignated period by comparing the present credit card number with those stored in memory in microcomputer 22. If so, *microcomputer 22 permits only those coupons still available for selection by that particular customer account number to be displayed.* If, for example, the manufacturer has prescribed a one per customer limit for a coupon, and that coupon has been previously issued to the customer under the same credit account number, the coupon will not be displayed. Furthermore, even if the particular credit account number has no selection history, *if the maximum number of a particular coupon either collectively or on a store by store basis have been issued, that coupon will no longer be displayed. In this fashion, a manufacturer is provided with much more control over the maximum redemption liability than the prior art method of newspaper distribution.*

Col. 5, line 66 to Col. 6, line 11 (emphasis added).

In another passage, Lemon explains again how access to coupons is controlled.

If, on the other hand, a previous coupon transaction history is located, this data is utilized at step 116 to *mask out* previously selected coupons from the display if the limit of coupons per period has already been reached under this customer's account number so that requests for coupons utilizing a single account number are limited to the prescribed number of each coupon.

Col. 10, lines 33-40 (emphasis added).

Applicant fails to see how Lemon teaches selecting content, display characteristics, or anything in accordance with or conforming to user “preferences.” If user coupon selections are “preferences,” then Lemon teaches a complete disregard for preferences by teaching that a customer who selects a coupon for a product—and therefore, expresses a preference for the product—is not permitted to receive another coupon for that product within a certain period of time. Furthermore, if too many other customers have selected the same coupon, a late arriving customer is not presented with the option of selecting the coupon, even if it he or she would “prefer” it over any other coupons. Applicant respectfully submits that Lemon’s teaching related to limiting a customer’s choices to those items which he/she and others have not selected previously (and therefore, have not expressed a preference) is not a teaching related to the accordance or conformity with “preferences” in determining display characteristics.

The cited passages of Lemon fail to meet many of the claim limitations described above. At best, Lemon teaches a coupon template that is populated with content, but not user preferred content. The more a user interacts with the system of Lemon, the less likely the user is to find coupons for items he or she would like to purchase. User preferences for content, as well as presentation of content, are not considered at all in the layout of individual coupons or in the pages of preformatted coupons from which users may select. Applicant respectfully submits that Lemon fails to teach display model parameters/variable display characteristics that relate to elements of a display comprising content data and that indicate monitored user preferences for presentation of content as well as actual display characteristics that are independent of content data, that are based on display model parameters/variable display characteristics, and that are used to present content data. Lemon fails to teach important claim limitations and cannot be combined with other references, including Herz, to reject the claims of the application. Neither Lemon nor Herz teach a system that tailors the user experience independent of content, (i.e., in the presentation of content), based upon user needs and preferences.

As presently claimed, content and presentation characteristics are independent of one another. Thus, different users who may receive the same content are unlikely see that content in the same format. The predictive model may indicate that one consumer makes more on-line purchases when the background color on the display screen is blue while another consumer, viewing the same content, makes more on-line purchases when the background color on the display screen is green. To maximize the opportunity for a sale, the present invention accounts for these differences in consumer

preferences provides content on background colors that conform to each consumer's preferences. Neither Lemon nor Herz teach determination of display characteristics independent of content as each may relate to a specific consumer.

## **CONCLUSION**

Applicant respectfully submits that neither the Lemon reference nor the Herz reference teaches each aspect of the present invention related to display elements that are independent of content. Therefore, neither Lemon nor Herz, either separately or in combination, can support the present rejections. Applicant respectfully submits that the present application is properly in condition for allowance and respectfully requests such action.

Respectfully submitted,

Date: June 9, 2007

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